

Public Hearing DRAFT 11-17-14
(Includes all changes as accepted by
W&S Adv. Committee through 11-14-14).

Proposed deletions are shown as ~~strikeout~~.
Proposed additions are shown as ***Bold, Italic, Underline.***

TOWN OF CHATHAM
RULES AND REGULATIONS
OF THE
SEWER DEPARTMENT

ARTICLE II
REGULATION OF SEWER FLOW

Section 1. Existing Structures.

Any structure in existence on May 10, 2005, regardless of its flow, may maintain that flow. No person shall modify an existing structure or change its use so as to increase its sewage flow, **except as permitted herein. Title 5 System Sewage Flow** Design Criteria contained in 310 CMR 15.203, and any Board of Health Regulation modifying such, shall be used to determine whether a proposed modification or change in use shall constitute an increase in sewage flow. Expansion or modification of existing structures, which may result in increased flow, shall not be allowed unless the increase is in compliance with the Board of Health's Regulations in effect on ~~May 10, 2005~~ **May 11, 2006; or additional flow is approved under Section 4 hereof.** **Expansion;** or a variance pursuant to Section 5 **9 hereof** is first obtained. **Any approved increase in flow is subject to the time limitations of Section 7;** ~~except as currently allowed under Part #1 of the Town of Chatham "Sewer Bank" Allocation & Permit Policy for properties connected to the sewer as of May 10, 2005.~~

Section 2. Determination of Present Sewage Flow.

Sewage flow to the municipal sewer shall be ~~determined~~ **calculated** using provisions set forth in 310 CMR 15.203: **Title 5** System Sewage Flow Design Criteria, and any local Board of Health Regulation modifying such in effect on ~~May 10, 2005~~ **May 11, 2006**. The owner of any property shall, upon reasonable notice and request, allow an inspection of a property for a determination of flow by an agent of the Board of Health, except that in lieu of this inspection, the owner of the property may submit a floor plan with sufficient detail to account for all outside structure dimensions. This floor plan must bear the signature of approval of a Certified Septic System Inspector.

Section 3. Undeveloped Parcels.

For the purpose of determining sewer flow, any existing lot, otherwise qualified, may be permitted for that sewage flow as determined under the Board of Health's Regulations in effect on ~~May 10, 2005~~ May 11, 2006, or 310 CMR 15.000 et. Seq, whichever is less.

Section 4. Expansion

- A. Single Family Residential. Consistent with the Board of Health Interim Nitrogen Loading Regulation revised on May 11, 2006 which allows for the possible addition of one (1) bedroom, above that otherwise allowed, with the use of a nitrogen reducing Innovative/Alternative Technology septic system, one (1) additional bedroom (the flow equivalent of 110 gpd) may be allowed for single-family residential properties connected to or to be connected to the sewer within two (2) years, subject to the following:
1. Properties that have already been approved for the additional bedroom under a Board of Health variance or sewer application are not eligible under this Section.
 2. Requests under this Section must be made in writing, including floor plans showing existing and proposed conditions to verify the number of bedrooms, to the DPW Director for review and approval, such approval to be granted upon determination of compliance with the Rules and Regulations of the Sewer Department.
 3. All necessary local approvals for addition of said bedroom, as applicable, have been issued.
- B. Commercial. Existing commercial properties, as defined in Title 5, 15.203 (3), connected to or to be connected within two (2) years to the sewer may be allowed up to a 30% increase in wastewater flow above existing, documented Title 5 System Sewage Flow Design Criteria flow, provided said increase is not due to a change in use, subject to the following:
1. Properties that have already been approved for increased flow under a Board of Health variance or sewer application are not eligible under this Section.
 2. Requests under this Section must be made in writing, including floor plans showing existing and proposed conditions, to the DPW Director for review and approval, such approval to be granted upon determination of compliance with the Rules and Regulations of the Sewer Department.
 3. All other necessary local approvals as applicable have been issued.

- C. Properties not otherwise covered by Section 4A or 4B must seek a variance pursuant to Section 9.

Section 5. Changes in Sewage Flow

- A. Changes in the calculated Title 5 System Sewage Flow Design Criteria flow associated with from an individual existing connection that do not result in any increase in sewage flow to the sewer system are permitted with the approval of the appropriate Town Departments, Boards, Committees, and/or Commissions. The request shall be made in writing to the DPW Director indicating existing use(s) and flow(s) and proposed use(s) and flow(s).
- B. Should a change in Title 5 System Sewage Flow Design Criteria flow result in a decrease in the sewage flow needs for the property, the owner may elect to return unused flow to the Town, subject to applicable provisions of law. Following a review, by town staff and owner, of the historic and current flow and agreement on the amount of unused flow, the property owner may, by affidavit, return the unused flow to the town. Such affidavit shall indicate the owner is willingly returning the unused flow and recognizes the limitations this may place on future land uses or expansion of existing land uses on the property. Such unused flow returned to the town is subject to further use by the town at its discretion. A property owner who returns unused flow to the town accrues no advantages if future land use or expansion of existing land uses on the property or other property(s) is desired. The property owner shall submit an application subject to all provisions of this Article.

Section 6. Sewage Flow Transfers

- A. Transfer of Title 5 System Sewage Flow Design Criteria flow from one property to another property is prohibited.
- B. Transfer of Title 5 System Sewage Flow Design Criteria flow between individual connections on the same property is prohibited.

Section 7. Time Limitation

If an approved sewage flow increase is not actually used within two (2) years from the date the flow increase was approved, the sewage flow increase shall revert to the Town automatically unless, upon application from the applicant, the Water and Sewer Commissioners, in their sole discretion, grants an extension of time for good cause shown prior to the two (2) year period from the approval. Good cause may include but shall not be limited to a demonstration that pursuit of other regulatory permits have caused delays; or that other practical barriers to completing construction have caused unforeseen delays.

Section 8. Rebuilding because of fire, flood, storm or other acts of nature.

A property owner may rebuild a structure destroyed by fire, flood, storm or other acts of nature as a matter of right provided that the new structure does not exceed the sewage flow of the structure being replaced.

Section 9. Variances.

A. General

1. *All applications for a variance shall be submitted in writing to the Water and Sewer Advisory Committee for review during a posted public meeting, followed by a recommendation to the Water and Sewer Commissioners, who shall thereafter hold a public hearing on the application. Each application shall include a list prepared by the applicant and certified by the Assessors of the Town naming all abutters to the subject property, owners of land directly opposite the property line of the subject property on any public or private street or way; and all abutters to abutters within three hundred (300) feet of the subject property, all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner may be located in another city or town. Such abutters and parties in interest shall be notified, by certified or registered mail, of the hearing, no less than two weeks prior to the hearing.*
2. *The hearing of the Water and Sewer Commissioners shall commence within 45 days of the date that the application is submitted and a decision thereon shall be issued within 14 days from the close of the public hearing.*

B. Hardship Variance

In the case of unusual and substantial hardship, *established by a preponderance of the evidence*, which must be substantiated by the Applicant, not the result of acts or omissions of the landowner, the Board of the Water and Sewer Commissioners, after a public hearing, as aforesaid, may grant a variance to this ~~part of the~~ regulation, in whole or in part, provided that sufficient capacity exists and such relief may be granted without substantially derogating from the intent or purpose of this regulation.

The proposed development or project must be compatible with the goals of the Town's Long-Range Comprehensive Plan with primary emphasis on Section 1. Land Use, 1.1 Goal.

C. Economic Development Variance

1. *As part of their investigation, the Water and Sewer Advisory Committee may elect to consult with the Economic Development Advisory Committee at a posted public meeting.*

2. The Board of the Water and Sewer Commissioners, after a public hearing of which notice has been given as aforesaid, may grant a variance for economic development purposes, provided that such relief may be granted without substantially derogating from the intent or purpose of this regulation. When considering such requests, the applicant shall have the burden of establishing, by a preponderance of the evidence, that the project meets ALL (i, ii, & iii) of the following criteria:
 - i. That the proposed development is in the public interest benefiting not only the applicant, but also the community at-large taking into consideration the opportunity to support the creation of jobs, capital investment, and the generation of state and local tax revenues.
 - ii. That the existing business or proposed development would be more economically viable if additional flow were allocated to the property.
 - iii. The proposed development or project must be compatible with the goals of the Town's Long-Range Comprehensive Plan with primary emphasis on Section 1. Land Use, 1.1 Goal.
3. Additional flow granted under an Economic Development Variance is subject to the following:
 - i. If the economic development activity for which additional flow has been granted is changed, the additional flow granted under said category automatically reverts to the Town, unless the applicant obtains prior approval of such change from the Water and Sewer Commissioners at a posted public meeting. The review of the change is subject to the criteria of Section 9.C.2 hereof.
 - ii. The total flow available to be granted for Economic Development Variances is limited to 20,000 gpd. Under an Economic Development Variance no existing property shall be allowed to increase its flow by more than 1,000 gpd with flow calculated using the Title 5 System Sewage Flow Design Criteria.
 - iii. Any variance authorized to be made by this regulation may be subject to such conditions, qualification, revocation, suspension, or expiration as the Board of Water & Sewer Commissioners expresses in its grant.

D. Overlapping Variances

- a. Single Family residential properties shall not be granted additional flow under Section 4B or Section 9.C, Economic Development Variance. Single Family residential properties granted flow under Section 4A may be granted additional flow under a Hardship Variance, Section 9.B.

- b. Existing commercial properties shall not be granted additional flow under Section 4A. Existing commercial properties granted additional flow under Section 4B shall not be granted additional flow under an Economic Development Variance, Section 9.C. unless a period of at least three (3) years has elapsed. Existing commercial properties granted additional flow under Section 4B may be granted additional flow under a Hardship Variance, Section 9.B.

Section 10. Appeals

Any person aggrieved by the final decision of the Water & Sewer Commissioners under these regulations may seek relief in the nature of certiorari under MGL Chapter 249 §4.

Section 11. Town of Chatham Sewer Bank Allocation and Permit Policy

The Town of Chatham Sewer Bank Allocation and Permit Policy, and any revision thereof, adopted under Administrative Consent Order No. ACO-SE98-1002, to the extent applicable, is hereby abolished.